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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,287	03/27/2004	Karen L. Boggs		9285
7590	04/20/2005			
Mr. Gary L. Boggs 1665 Fairway Crest Loveland, OH 45140			EXAMINER PRINCE, FRED G	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/810,287	BOGGS ET AL.	
	Examiner	Art Unit	
	Fred Prince	1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The amendment filed on March 16, 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: a frame mountable by means other than hooks, designed to be mountable to any opening, a vertical or horizontal grid opening, a guard made of any color, a frame mounted constructed without hooks, cross-members comprised of any design or pattern. All of the subject matter added to the specification in the amendment is new.

Applicant is required to cancel the new matter in the reply to this Office Action.

2. The use of the trademark VELCRO has been noted in this application. Should applicant be able to establish that the addition of VELCRO to the specification is not new matter, each letter of VELCRO should be capitalized wherever it appears and be accompanied by the generic terminology, i.e., a hoop and loop fastener.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Drawings

3. The drawings are objected because they contain new matter. The subject matter illustrated in Figs. 8 and 9 is new and must be deleted from the drawings.

Claim Objections

4. Claim 3 is objected to because of the following informalities: In line 1 of claim 3, "claim 1" should be deleted and --claim 2-- inserted therefor. In line 2 of claim 3, "of claim 2" should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 2 and 4-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The subject matter added to claims 2 and 4, as well as the subject matter in claims 5-8, was not described in the original claims or original disclosure.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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9. Claim 1 recites "each cross-member". However it is noted that only one cross member has been recited previous to the recitation of "each cross-member".

10. Claim 1 is considered vague and indefinite as the claim recites in line 6 "the first". It is unclear if "the first" refers to the "first" cross member or the "first" plane.

11. Claim 1 recites the limitation "the skimmer intake flange" in line 4. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 1 recites the limitation "the upper surface" in line 5. There is insufficient antecedent basis for this limitation in the claim.

13. Claim 1 recites the limitation "the rectangular frame" in line 7. There is insufficient antecedent basis for this limitation in the claim.

14. Claim 1 recites the limitation "the first semi-rigid strip member" in line 8. There is insufficient antecedent basis for this limitation in the claim.

15. Claim 1 recites the limitation "the second cross member" in line 9. There is insufficient antecedent basis for this limitation in the claim.

16. Claim 1 recites the limitation "the rectangular frame" in line 10. There is insufficient antecedent basis for this limitation in the claim.

17. Claim 1 recites the limitation "the vertical side" in line 3. There is insufficient antecedent basis for this limitation in the claim.

18. Claim 2 recites the limitation "the rectangular flange" in line 3. There is insufficient antecedent basis for this limitation in the claim.

19. Claim 2 recites the limitation "said upper surface section" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

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20. Claim 8 recites the limitation "the cover for the skimmer intake flange" in line 2.

There is insufficient antecedent basis for this limitation in the claim.

21. Claims 3-7 are rejected as depending from a rejected claim.

Claim Rejections - 35 USC § 102

22. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

23. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Mattson, Jr. et al. (US Pat No 6,760,931).

Mattson, Jr. et al. disclose a rectangular-shaped member (col. 13, lines 13-14) comprising rounded first, second, third, and fourth members in the shape of a skimmer intake flange (Fig. 9).

Claim Rejections - 35 USC § 103

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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25. Claims 1 and 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altschul (US Pat No 4,429,429).

Altschul discloses a rectangular-shaped member (98) comprising first, second, third, and fourth members in the shape of a skimmer intake flange (Fig. 12), vertical members (104), wherein the skimmer is attachable to the skimmer intake.

Per claim 1, Altschul does not explicitly disclose rounded cross members. It is submitted that it is conventional in the art to use rounded cross members in order to, for example, minimize the risk of swimmers being cut by sharp edges. Accordingly, it would have been readily obvious for the skilled artisan to have modified the screen of Altschul such that it includes rounded cross members in order to, for example, minimize the risk of swimmers being cut by sharp edges, as known in the art.

Per claims 4 and 6, it is submitted that it is a matter of design choice for the skilled artisan to make the guard in any design or pattern. Accordingly, absent a showing of unexpected results, in the form of, for instance, comparative test data, it is submitted that the design a pattern fails to patentably distinguish the instant invention over the prior art.

Per claim 8, it is submitted that it is well within the purview of the skilled artisan to integrate cross members into a flange in order to, for example, simplify installation of a filter and reduce the number of free parts to be assembled.

26. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altschul in view of Tilsner (US Pat No 6,716,342) or Kool (US Pat No 5,128,034).

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Altschul is described above. Altschul does not explicitly disclose hooks having the elements and positioning recited in the claims.

In any case Tilsner discloses hooks (110) having detents and Kool discloses hooks (12) having detents in order to, for example, secure one member to another for quick, secure assembly/disassembly.

It would have been readily obvious for the skilled artisan to have modified the skimmer guard of Altschul such that it includes hooks having detents in order to, for example, secure one member to another for quick, secure assembly/disassembly, as suggested by either Tilsner or Kool. Further, mere substitution of one known means of attaching for another is well within the scope of one of ordinary skill in the art and there has been no proper showing of unobvious or unexpected results of utilizing one known means over another.

Conclusion


27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References are cited of interest to show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Prince whose telephone number is (571) 272-1165. The examiner can normally be reached on Monday-Thursday, 6:30-4:00; alt. Fridays 6:30-3:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Fred Prince
Primary Examiner
Art Unit 1724

fgp
4/15/05